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Ohio Department of Aging

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Bob Taft, Governor
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NOTICE

November 28, 2006

Notice is hereby given that the Ohio Department of Aging will conduct a public hearing in accordance with Chapter 119 of the Ohio Revised Code to obtain comments concerning the Department's proposed rescission and replacement of **rule 173-39-02.6 of the Ohio Revised Code**, which is the rule governing emergency response systems for those individuals on the PASSPORT Medicaid waiver or on the Choices Medicaid waiver.

The hearing to which this notice applies will be conducted on **Tuesday, January 2, 2007** in Conference rooms A and B of the Department's offices at 50 W. Broad Street, 10th floor; Columbus, OH 43215. The hearing will begin at **10:30AM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

The Department of Aging is proposing a rescission of current rule 173-39-02.6 of the Administrative Code and proposing that it be replaced by this new rule. This rule governs the requirements for providers of emergency response system (ERS) services provided to consumers enrolled in the PASSPORT Medicaid waiver program or the Choices Medicaid waiver program. After the current rule became effective on March 31, 2006, the Department received feedback indicating that the rule needed to be updated. As a result, the Department drafted a proposed new rule to replace the current rule. On September 25, 2006, the Department held a meeting for any provider, PASSPORT Administrative Agency (PAA), or other interested party to discuss a draft of the proposed new rule. After considering that feedback, on October 12, 2006, another draft of the proposed new rule was posted on the rules clearance web page of the Department (<http://www.goldenbuckeye.com/rules/draft.html>) for two weeks to allow for further feedback. After considering that input, the draft of the proposed new rule was further revised, then posted for a second two-week comment period on November 8, 2006. After considering that input, the draft of the proposed new rule was further revised, then filed with JCARR.

The proposed new rule contains content that differs from the rule that it replaces, which is listed as follows:

1. In paragraphs (A)(1), (D)(1), (D)(9), and (D)(10), "ERS" is described in ways that no longer require telephone technology to be the only technology that is authorized for this service. These paragraphs authorize any form of technology capable of performing the service.

2. Because the emergency response center responds to emergencies only once signaled by the consumer, the words "monitor" and "monitoring" are removed from paragraphs (A), (D)(10), (F)(2), and (F)(3) without changing the intent of those paragraphs.
3. Paragraph (A)(1)(b) clarifies that boundary alarms and medication dispensers are not considered ERS, but considered home medical equipment, which is regulated by rule 173-39-02.7 of the Administrative Code.
4. Language concerning consumer eligibility limitation (located in paragraph (A) of the current rule) is removed from this provider mandate rule. Case managers will determine which consumers are in need of this service.
5. Several clarifying definitions were added to paragraph (A).
6. Paragraph (B) expands the types of units of service to three. One of the additional types of units will allow a provider to be reimbursed for a unit of ERS installation, which will include the delivery, installation, and initial consumer education related to the ERS equipment. The other additional unit will allow a provider to be reimbursed for a qualifying device that is part of an ERS, but not, in itself, an ERS. For example, billing under this unit of service will allow a provider to be reimbursed for a second pendant (versus an entire set of ERS equipment) in a home where another person already has an ERS installed.
7. Paragraph (D)(2) now states that when ERS equipment that a provider rents to a consumer malfunctions, the provider must replace it free of charge.
8. The concept behind paragraph (D)(3) of the current rule was moved to become part of paragraph (D)(6).
9. As with the current rule, paragraph (D)(3) requires providers to provide evidence that their ERS equipment meets the standards for home health signaling equipment established by the Underwriters Laboratories, but does not require that providers have their equipment tested by Underwriters Laboratories. Because some products are not tested by UL, paragraph (D)(4) was created as an alternative form of compliance to safety standards.
10. The proposed rule does not contain a requirement for line seizure circuitry that is present in paragraph (D)(10) of the current rule.
11. Paragraph (D)(12) from the current rule was deleted because it was a duplicate mandate. The requirements are still present in paragraph (D)(5) of the new rule.
12. Paragraph (E) of the proposed rule outlines how a provider should identify emergency responders for the consumer. This paragraph was inspired by the recently adopted Sections 52.301 and 52.303 of the Texas Administrative Code.

13. It deletes paragraph (G)(5) in the current rule because it is a duplicate mandate of paragraph (F) of that same current rule. That requirement can be found in paragraph (G)(1) of the new rule.
14. In paragraph (G)(1), the proposed rule requires providers to document the time of consumer-related contact, not just the day.
15. In paragraph (G)(1), it clarifies that false alarms are delivered services that should be documented. This way, it may become clear if some consumers abuse the ERS.
16. Paragraph (G)(2)(b) requires the provider to obtain a signature from the consumer verifying receipt of initial education on the ERS and the ERS equipment.
17. In paragraph (G)(2)(c) clarifies that the requirement to update contact information about emergency responders should be performed at least monthly.
18. In paragraph (H)(1), it states that the provider must provide initial education to the consumer about ERS and the ERS equipment in a face-to-face encounter. However, it does not require a face-to-face encounter with emergency responders.
19. Paragraph (H)(2) requires the provider to provide written procedures that explain ERS and the proper use of the ERS equipment to the emergency responders.
20. The proposed rule makes other changes that bring the language of the rule into compliance with the Rule Drafting Manual ("Rule Drafting Manual." Ohio Legislative Service Commission. 4th Ed. May, 2006) and that provide clarity.